

GOODSILL ANDERSON QUINN & STIFEL
A LIMITED LIABILITY LAW PARTNERSHIP LLP

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Attorneys for Defendant

BLUE DOLPHIN CHARTERS, LTD.

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

NOV 15 2004

at 11 o'clock and 00 min. M.
WALTER A.Y.H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DENNIS CLAYPOOL, SHERYL
CLAYPOOL, individually and as
Guardian ad Litem for KRISTEN
CLAYPOOL, a minor, SCOTT
CLAYPOOL, and KRISTIN
CLAYPOOL,

Plaintiffs,

vs.

CAPTAIN ANDY'S SAILING, INC.,
BLUE DOLPHIN CHARTERS, LTD.
and BLUE DOLPHIN DIVING, LTD.,

Defendants.

CIVIL NO. CV04-00570 ACK/KSC

DEFENDANT BLUE DOLPHIN
CHARTERS, LTD.'S ANSWER TO
FIRST AMENDED COMPLAINT
FOR PERSONAL INJURY
DAMAGES AND LOSS OF
CONSORTIUM FILED ON
SEPTEMBER 22, 2004;
DEFENDANT BLUE DOLPHIN
CHARTERS, LTD.'S CROSS-
CLAIM AGAINST DEFENDANT
CAPTAIN ANDY'S SAILING,
INC.; AND CERTIFICATE OF
SERVICE

**DEFENDANT BLUE DOLPHIN CHARTERS, LTD.'S
ANSWER TO FIRST AMENDED COMPLAINT FOR
PERSONAL INJURY DAMAGES AND
LOSS OF CONSORTIUM FILED ON SEPTEMBER 22, 2004**

COMES NOW, Defendant BLUE DOLPHIN CHARTERS, LTD.

("Defendant"), by and through its attorneys, GOODSILL ANDERSON QUINN & STIFEL, a Limited Liability Law Partnership LLP, and answers the First Amended Complaint for Personal Injury Damages and Loss of Consortium (the "Complaint"), filed on September 22, 2004, as follows:

FIRST DEFENSE

PRELIMINARY ALLEGATIONS

1. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint and therefore denies the same.
2. In response to Paragraph 2 of the Complaint, Defendant admits that BLUE DOLPHIN CHARTERS, LTD. is a Hawaii corporation, with its principal place of business in Ele'ele, Kauai. Defendant denies any and all remaining allegations of said Paragraph 2.
3. In response to Paragraph 3 of the Complaint, Defendant is without information sufficient to form a belief as to the truth of the allegations, and therefore denies the same.

SIXTH DEFENSE

27. The accident and injuries alleged by Plaintiffs were proximately caused, in whole or in part, by the acts, fault and negligence of third parties, and were not caused or contributed to by any act or fault of Defendant, its officers, agents, contractors, servants, employees, vessel or others for which they were responsible.

SEVENTH DEFENSE

28. The accident and injuries alleged were proximately caused by the negligence of Plaintiffs and/or others, but not Defendant.

EIGHTH DEFENSE

29. Plaintiffs have failed to mitigate their alleged damages.

NINTH DEFENSE

30. Plaintiffs assumed the risk of injury.

TENTH DEFENSE

31. Defendant pleads and is entitled to and hereby claims the benefits of the Limitation of Shipowner's Liability Act, 46 U.S.C. App. § 183 *et seq.* and all acts amendatory thereof and supplemental thereto.

ELEVENTH DEFENSE

32. The accident and injuries alleged were caused by an Act of God.